



Reprinted
March 25, 2005

ENGROSSED SENATE BILL No. 79

DIGEST OF SB 79 (Updated March 24, 2005 5:12 pm - DI 96)

Citations Affected: IC 8-2.1; IC 9-18.

Synopsis: Commercial vehicle operated intrastate. Provides that the bureau of motor vehicles may adopt rules to issue staggered registration to intrastate commercial vehicles. Provides that a certain federal requirement concerning diabetic drivers who operate motor vehicles for private carriers of property does not apply when the carrier vehicle is operated intrastate under specific circumstances.

Effective: Upon passage; July 1, 2005.

Wyss, Simpson, Antich-Carr
(HOUSE SPONSORS — DUNCAN, GOODIN)

January 4, 2005, read first time and referred to Committee on Commerce and Transportation.

January 27, 2005, reported favorably — Do Pass.

January 31, 2005, read second time, ordered engrossed.

February 1, 2005, engrossed.

February 3, 2005, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

March 7, 2005, read first time and referred to Committee on Roads and Transportation.

March 21, 2005, reported — Do Pass.

March 24, 2005, read second time, amended, ordered engrossed.

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ES 79—LS 6444/DI 105+



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March 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 79

A BILL FOR AN ACT to amend the Indiana Code concerning
motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-2.1-24-18 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) 49 CFR
3 Parts 382 through 387, 390 through 393, and 395 through 398 is
4 incorporated into Indiana law by reference, and, except as provided in
5 subsections (d), (e), (f), and (g), must be complied with by an interstate
6 and intrastate motor carrier of persons or property throughout Indiana.
7 Intrastate motor carriers subject to compliance reviews under 49 CFR
8 385 shall be selected according to criteria determined by the
9 superintendent which must include but is not limited to factors such as
10 previous history of violations found in roadside compliance checks and
11 other recorded violations. However, the provisions of 49 CFR 395 that
12 regulate the hours of service of drivers, including requirements for the
13 maintenance of logs, do not apply to a driver of a truck that is
14 registered by the bureau of motor vehicles and used as a farm truck
15 under IC 9-18, or a vehicle operated in intrastate construction or
16 construction related service, or the restoration of public utility services
17 interrupted by an emergency. Except as provided in subsection (i),

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intrastate motor carriers not operating under authority issued by the United States Department of Transportation shall comply with the requirements of 49 CFR 390.21(b)(3) by registering with the department of state revenue as an intrastate motor carrier and displaying the certification number issued by the department of state revenue preceded by the letters "IN". Except as provided in subsection (i), all other requirements of 49 CFR 390.21 apply equally to interstate and intrastate motor carriers.

(b) 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177 through 178, and 180, is incorporated into Indiana law by reference, and every:

- (1) private carrier;
- (2) common carrier;
- (3) contract carrier;
- (4) motor carrier of property, intrastate;
- (5) hazardous material shipper; and
- (6) carrier otherwise exempt under section 3 of this chapter;

must comply with the federal regulations incorporated under this subsection, whether engaged in interstate or intrastate commerce.

(c) Notwithstanding subsection (b), nonspecification bulk and nonbulk packaging, including cargo tank motor vehicles, may be used only if all the following conditions exist:

- (1) The maximum capacity of the vehicle is less than three thousand five hundred (3,500) gallons.
- (2) The shipment of goods is limited to intrastate commerce.
- (3) The vehicle is used only for the purpose of transporting fuel oil, kerosene, diesel fuel, gasoline, gasohol, or any combination of these substances.

All additional federal standards for the safe transportation of hazardous materials apply until July 1, 2000. After June 30, 2000, the maintenance, inspection, and marking requirements of 49 CFR 173.8 and Part 180 are applicable. In accordance with federal hazardous materials regulations, new or additional nonspecification cargo tank motor vehicles may not be placed in service under this subsection after June 30, 1998.

(d) For the purpose of enforcing this section, only:

- (1) a state police officer or state police motor carrier inspector who:
 - (A) has successfully completed a course of instruction approved by the Federal Highway Administration; and
 - (B) maintains an acceptable competency level as established by the state police department; or

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(2) an employee of a law enforcement agency who:

(A) before January 1, 1991, has successfully completed a course of instruction approved by the Federal Highway Administration; and

(B) maintains an acceptable competency level as established by the state police department;

on the enforcement of 49 CFR, may, upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of any carrier, including a carrier exempt under section 3 of this chapter.

(e) A person hired before September 1, 1985, who operates a motor vehicle intrastate incidentally to the person's normal employment duties and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a)) is exempt from 49 CFR 391 as incorporated by this section.

(f) Notwithstanding any provision of 49 CFR 391 to the contrary, a person at least eighteen (18) years of age and less than twenty-one (21) years of age may be employed as a driver to operate a commercial motor vehicle intrastate. However, a person employed under this subsection is not exempt from any other provision of 49 CFR 391.

(g) Notwithstanding subsection (a) or (b), the following provisions of 49 CFR do not apply to private carriers of property operated only in intrastate commerce or any carriers of property operated only in intrastate commerce ~~while employed in construction or construction related service whether or not the carrier vehicle is of a class that requires commercial driver's license:~~

(1) Subpart 391.41(b)(3) as it applies to physical qualifications of a driver who has ~~applied for or holds a commercial driver's license (as defined in IC 9-13-2-29); been~~ diagnosed as an insulin dependent diabetic, if the driver has applied for and been granted an intrastate medical waiver by the bureau of motor vehicles **pursuant to this subsection. The same standards and the following procedures shall apply for this waiver whether or not the driver is required to hold a commercial driver's license. An application for the waiver shall be submitted by the driver and** completed and signed by a certified endocrinologist or the driver's treating physician attesting that the driver:

(A) is **not** otherwise physically ~~qualified~~ **disqualified** under Subpart 391.41 to operate a motor vehicle, **whether or not any additional disqualifying condition results from the diabetic condition**, and is not likely to suffer any diminution in driving ability due to the driver's diabetic condition;

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(B) is free of severe hypoglycemia or hypoglycemia unawareness and has had less than one (1) documented, symptomatic hypoglycemic reaction per month;

(C) has demonstrated the ability and willingness to properly monitor and manage the driver's diabetic condition;

(D) has agreed to and, to the endocrinologist's or treating physician's knowledge, has carried a source of rapidly absorbable glucose at all times while driving a motor vehicle, has self monitored blood glucose levels one (1) hour before driving and at least once every four (4) hours while driving or on duty before driving using a portable glucose monitoring device equipped with a computerized memory; and

(E) has submitted the blood glucose logs from the monitoring device to the endocrinologist or treating physician at the time of the annual medical examination.

A copy of the blood glucose logs shall be filed along with the annual statement from the endocrinologist or treating physician with the bureau of motor vehicles for review by the driver licensing medical advisory board established under IC 9-14-4. A copy of the annual statement shall also be provided to the driver's employer for retention in the driver's qualification file, and a copy shall be retained and held by the driver while driving for presentation to an authorized federal, state, or local law enforcement official. **Notwithstanding the requirements of this clause, the endocrinologist, the treating physician, the advisory board of the bureau of motor vehicles, or the bureau of motor vehicles may, where medical indications warrant, establish a short period for the medical examinations required under this clause.**

(2) Subpart 396.9 as it applies to inspection of vehicles carrying or loaded with a perishable product. However, this exemption does not prohibit a law enforcement officer from stopping these vehicles for an obvious violation that poses an imminent threat of an accident or incident. The exemption is not intended to include refrigerated vehicles loaded with perishables when the refrigeration unit is working.

(3) Subpart 396.11 as it applies to driver vehicle inspection reports.

(4) Subpart 396.13 as it applies to driver inspection.

(h) For purposes of 49 CFR 395.1(l), "planting and harvesting season" refers to the period between January 1 and December 31 of each year. The intrastate commerce exception set forth in 49 CFR

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395.1(l), as it applies to the transportation of agricultural commodities and farm supplies, is restricted to single vehicles and cargo tank motor vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

(i) The requirements of 49 CFR 390.21 do not apply to an intrastate carrier or a guest operator not engaged in interstate commerce and operating a motor vehicle as a farm vehicle in connection with agricultural pursuits usual and normal to the user's farming operation or for personal purposes unless the vehicle is operated either part time or incidentally in the conduct of a commercial enterprise.

(j) The superintendent of state police may adopt rules under IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by reference under this section.

SECTION 2. IC 9-18-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) A person who owns a vehicle subject to registration shall register each vehicle owned by the person as follows:

(1) A vehicle subject to section 8 of this chapter shall be registered under section 8.

(2) **Subject to subsection (g)**, a vehicle not subject to section 8 of this chapter or to the International Registration Plan shall be registered before:

(A) March 1 of each year; or

(B) an earlier date subsequent to January 1 of each year as set by the bureau.

(3) School buses owned by a school corporation are exempt from annual registration but are subject to registration under IC 20-9.1-4.

(4) Subject to subsection (f), a vehicle subject to the International Registration Plan shall be registered before April 1 of each year.

(b) Registrations and re-registrations under this section are for the calendar year. Registration and re-registration for school buses owned by a school corporation may be for more than a calendar year.

(c) License plates for a vehicle subject to this section may be displayed during:

(1) the calendar year for which the vehicle is registered; and

(2) the period of time:

(A) subsequent to the calendar year; and

(B) before the date that the vehicle must be re-registered.

(d) A person who owns or operates a vehicle may not operate or permit the operation of a vehicle that:

(1) is required to be registered under this chapter; and

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- 1 (2) has expired license plates.
 2 (e) If a vehicle that is required to be registered under this chapter
 3 has:
 4 (1) been operated on the highways; and
 5 (2) not been properly registered under this chapter;
 6 the bureau shall, before the vehicle is re-registered, collect the
 7 registration fee that the owner of the vehicle would have paid if the
 8 vehicle had been properly registered.
 9 (f) The department of state revenue may adopt rules under IC 4-22-2
 10 to issue staggered registration to motor vehicles subject to the
 11 International Registration Plan.
 12 **(g) The bureau may adopt rules under IC 4-22-2 to issue**
 13 **staggered registration to motor vehicles described in subsection**
 14 **(a)(2).**

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SENATE MOTION

Madam President: I move that Senator Antich-Carr be added as coauthor of Senate Bill 79.

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COMMITTEE REPORT

Madam President: The Senate Committee on Commerce and Transportation, to which was referred Senate Bill No. 79, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 79 as introduced.)

SERVER, Chairperson

Committee Vote: Yeas 9, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred Senate Bill 79, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

DUNCAN, Chair

Committee Vote: yeas 10, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 79 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

“SECTION 1. IC 8-2.1-24-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) 49 CFR Parts 382 through 387, 390 through 393, and 395 through 398 is incorporated into Indiana law by reference, and, except as provided in subsections (d), (e), (f), and (g), must be complied with by an interstate and intrastate motor carrier of persons or property throughout Indiana. Intrastate motor carriers subject to compliance reviews under 49 CFR 385 shall be selected according to criteria determined by the superintendent which must include but is not limited to factors such as previous history of violations found in roadside compliance checks and other recorded violations. However, the provisions of 49 CFR 395 that regulate the hours of service of drivers, including requirements for the maintenance of logs, do not apply to a driver of a truck that is registered by the bureau of motor vehicles and used as a farm truck under IC 9-18, or a vehicle operated in intrastate construction or construction related service, or the restoration of public utility services interrupted by an emergency. Except as provided in subsection (i), intrastate motor carriers not operating under authority issued by the United States Department of Transportation shall comply with the requirements of 49 CFR 390.21(b)(3) by registering with the department of state revenue as an intrastate motor carrier and displaying the certification number issued by the department of state revenue preceded by the letters "IN". Except as provided in subsection (i), all other requirements of 49 CFR 390.21 apply equally to interstate and intrastate motor carriers.

(b) 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177 through 178, and 180, is incorporated into Indiana law by reference, and every:

- (1) private carrier;
- (2) common carrier;
- (3) contract carrier;
- (4) motor carrier of property, intrastate;
- (5) hazardous material shipper; and

(6) carrier otherwise exempt under section 3 of this chapter; must comply with the federal regulations incorporated under this subsection, whether engaged in interstate or intrastate commerce.

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nonbulk packaging, including cargo tank motor vehicles, may be used only if all the following conditions exist:

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(d) For the purpose of enforcing this section, only:

(1) a state police officer or state police motor carrier inspector who:

- (A) has successfully completed a course of instruction approved by the Federal Highway Administration; and
- (B) maintains an acceptable competency level as established by the state police department; or

(2) an employee of a law enforcement agency who:

- (A) before January 1, 1991, has successfully completed a course of instruction approved by the Federal Highway Administration; and
- (B) maintains an acceptable competency level as established by the state police department;

on the enforcement of 49 CFR, may, upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of any carrier, including a carrier exempt under section 3 of this chapter.

(e) A person hired before September 1, 1985, who operates a motor vehicle intrastate incidentally to the person's normal employment duties and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a)) is exempt from 49 CFR 391 as incorporated by this section.

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(g) Notwithstanding subsection (a) or (b), the following provisions

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of 49 CFR do not apply to private carriers of property operated only in intrastate commerce or any carriers of property operated only in intrastate commerce ~~while employed in construction or construction related service whether or not the carrier vehicle is of a class that requires commercial driver's license:~~

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- (B) is free of severe hypoglycemia or hypoglycemia unawareness and has had less than one (1) documented, symptomatic hypoglycemic reaction per month;
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- (D) has agreed to and, to the endocrinologist's or treating physician's knowledge, has carried a source of rapidly absorbable glucose at all times while driving a motor vehicle, has self monitored blood glucose levels one (1) hour before driving and at least once every four (4) hours while driving or on duty before driving using a portable glucose monitoring device equipped with a computerized memory; and
- (E) has submitted the blood glucose logs from the monitoring device to the endocrinologist or treating physician at the time of the annual medical examination.

A copy of the blood glucose logs shall be filed along with the annual statement from the endocrinologist or treating physician with the bureau of motor vehicles for review by the driver licensing medical advisory board established under IC 9-14-4. A copy of the annual statement shall also be

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provided to the driver's employer for retention in the driver's qualification file, and a copy shall be retained and held by the driver while driving for presentation to an authorized federal, state, or local law enforcement official. **Notwithstanding the requirements of this clause, the endocrinologist, the treating physician, the advisory board of the bureau of motor vehicles, or the bureau of motor vehicles may, where medical indications warrant, establish a short period for the medical examinations required under this clause.**

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(3) Subpart 396.11 as it applies to driver vehicle inspection reports.

(4) Subpart 396.13 as it applies to driver inspection.

(h) For purposes of 49 CFR 395.1(l), "planting and harvesting season" refers to the period between January 1 and December 31 of each year. The intrastate commerce exception set forth in 49 CFR 395.1(l), as it applies to the transportation of agricultural commodities and farm supplies, is restricted to single vehicles and cargo tank motor vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

(i) The requirements of 49 CFR 390.21 do not apply to an intrastate carrier or a guest operator not engaged in interstate commerce and operating a motor vehicle as a farm vehicle in connection with agricultural pursuits usual and normal to the user's farming operation or for personal purposes unless the vehicle is operated either part time or incidentally in the conduct of a commercial enterprise.

(j) The superintendent of state police may adopt rules under IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by reference under this section.

Renumber all SECTIONS consecutively.

(Reference is to Engrossed Senate Bill 79 as printed March 22, 2005.)

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